

**REMARKS****A. Overview**

Claims 1-36 were pending when the Office Action mailed. Applicants herein amend claims 33 and 34 and cancel claims 26-32, 35 and 36. Accordingly, claims 1-25 and 33-34 are currently pending.

The following table reflects the rejections presented in the Office Action:

<u>Claims</u>	<u>Basis</u>	<u>References</u>
26-36	101	
26-30 and 32-36	102(e)	U.S. Patent Publication No. 2003/0004781 by Mallon et al. ("Mallon")
1-2, 6-18, 20-25	103(a)	U.S. Patent Publication No. 2002/0169657 by Singh et al. ("Singh") and U.S. Patent No. 7,295,990 to Braumoeller et al. ("Braumoeller")
3-5	103(a)	Singh, Braumoeller, and U.S. Patent No. 6,745,150 to Breiman ("Breiman")
19	103(a)	Singh, Braumoeller, and U.S. Patent No. 6,912,505 to Linden et al. ("Linden")
31	103(a)	Mallon and Braumoeller
1, 7, 9-13, 21-25	Double-Patenting	Claims 1-12 of U.S. Patent Application No. 10/830,860

Applicants respectfully traverse these rejections. Nevertheless, applicants herein amend the claims to clarify the subject matter for which they seek protection. For reasons discussed in detail below, applicants submit that the pending claims are in condition for allowance.

**B. Rejection under 35 U.S.C. § 101**

The Office Action rejects claims 26-36 under 35 U.S.C. § 101. Although applicants do not concur in the propriety of this rejection, applicants herein amend

claims 33-34 to recite "tangible computer memories" and cancel claims 26-32 and 35-36. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

C. Double Patenting Rejection

The Office Action provisionally rejects claims 1, 7, 9-13, and 21-25 under the judicially created doctrine of nonstatutory obviousness-type double patenting over claims 1-12 of co-pending U.S. Patent Application No. 10/830,860. Without conceding the merits of this rejection, applicants respectfully postpone their response to this rejection until examination closes in the present application, U.S. Patent Application No. 10/830,860, or both.

D. Rejection under 35 U.S.C. § 102(e)

The Office Action rejects claims 26-30 and 32-36 under 35 U.S.C. § 102(e) over Mallon. Applicants respectfully traverse these rejections. Nevertheless, applicants herein cancel claims 26-30, 32, and 35-36 and amend claims 33 and 34 to clarify the subject matter for which they seek protection. For the reasons discussed in detail below, applicants submit that these claims are in condition for allowance.

Applicants' claimed technology "blends [a] projection of future purchasing activity produced directly or indirectly from [] past browsing activity metrics with a parallel projection of future activity generated from past purchasing activity." (Specification, ¶¶ [0015]). Multiple forecasts of future purchasing activities are combined, or blended, to produce a "blended purchasing forecast." (Specification, ¶ [0033]). The blending process determines "how heavily to weight [each forecast] in generating the blended purchasing forecast." (Specification, ¶ [0026]).

In contrast, Mallon is directed to a technique for predicting the behavior of a population based on interest data collected by observing a subpopulation's online behavior. (Mallon, Abstract). Mallon collects online interest data and characteristics for

particular subject matter and provides the information to a behavior predictor, which generates predictions as a weighted combination of the inputs. (Mallon, ¶¶ [0040], [0084]).

Claim 33 now recites "a blended projection of future purchasing activity for the selected item generated from a first indication of a level of purchasing activity expected to take place with respect to the selected item...and a second indication of a level of purchasing activity expected to take place with respect to the selected item." The relied-upon portions of Mallon describe a behavior predictor that generates predictions as a weighted combination of "on-line interest data and/or subject characteristics data." (Mallon, ¶ [0084]). Mallon describes on-line interest data as "any data that shows a level of interest of a subpopulation in a subject" and gives as examples "page views, searches, click streams, purchases, downloading media objects, message board postings, etc." (Mallon, ¶¶ [0033], [0041]). In describing subject characteristics data with respect to a movie, Mallon gives as examples "[t]he number of theaters showing the movie," "[t]he genre of the movie," and "[t]he name(s) of the lead actor or actors." (Mallon, Table 3). Mallon fails to teach or suggest using previously generated projections as inputs to the behavior predictor. Mallon does not combine projections of future purchasing activity, or indications of a level of purchasing activity expected to take place, to generate an additional projection of future purchasing activity, as recited. Accordingly, claim 33 is patentable over Mallon, as is its dependent claim 34. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

E. Rejections under 35 U.S.C. § 103(a)

The Office Action rejects claims 1-25 and 31 under 35 U.S.C. § 103(a) over Braumoeller in combination with other references. Applicants herein submit that the pending application and Braumoeller were, at the time the invention of the pending application was made, subject to an obligation of assignment to the same person. Accordingly, under 35 U.S.C. § 103(c)(1), Braumoeller cannot preclude patentability of

any of the claims of the pending application under any subsection of 35 U.S.C. § 103. Applicants respectfully request that the Examiner reconsider and withdraw these rejections.

F. Conclusion

In view of the above amendments and remarks, applicant believes the pending application is in condition for allowance.

Please charge any deficiencies, or credit any overpayment, to our Deposit Account No. 50-0665, under Order No. 249768070US from which the undersigned is authorized to draw.

Dated: April 18, 2008

Respectfully submitted,

By 

Steven D. Lawrenz

Registration No.: 37,376

PERKINS COIE LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-8000

(206) 359-7198 (Fax)

Attorney for Applicant